

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE ENROLLED ACT No. 2145

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.24-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest ~~indictment, information, or other formal~~ criminal charge, which must include a disposition. However, information about any arrest ~~indictment, information, or other formal~~ criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "Bias crime" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Council" means the security and privacy council created under section 11 of this chapter.

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(4) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

(A) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(B) Information regarding ~~an~~ **a sex and violent** offender (as defined in IC 5-2-12-4) obtained through sex **and violent** offender registration under IC 5-2-12.

(C) Any disposition, including sentencing, and correctional system intake, transfer, and release.

(5) "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(6) "Department" means the state police department.

(7) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

(8) "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

(9) "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

(10) "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

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(11) "Protective order" has the meaning set forth in IC 5-2-9-2.1.

(12) "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

(13) "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

(14) "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

(15) "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

SECTION 2. IC 5-2-5.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.

(2) A petition alleging that the child is a delinquent child.

(3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).

(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in ~~IC 5-2-12-4(1)~~ **IC 5-2-12-4** if committed by an adult; and

(B) that is obtained through sex **and violent** offender registration under IC 5-2-12.

SECTION 3. IC 5-2-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and



- (C) the administration of criminal and juvenile justice.
- (2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
 - (3) Stimulate criminal and juvenile justice research.
 - (4) Develop new methods for the prevention and reduction of crime.
 - (5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
 - (6) Administer victim and witness assistance funds.
 - (7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
 - (8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
 - (9) Serve as the criminal justice statistical analysis center for this state.
 - (10) Establish and maintain, in cooperation with the office of the secretary of family and social services, a sex and violent offender registry.
 - (11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.
 - (12) Prescribe or approve forms as required under IC 5-2-12.**
 - (13) Provide judges, law enforcement officers, prosecuting attorneys, parole officers, and probation officers with information and training concerning the requirements in IC 5-2-12 and the use of the sex and violent offender registry.**
- (b) The registry established under subsection (a)(10) must include the names of ~~all persons who~~
- ~~(1) have been convicted in Indiana before or after June 30, 1998, of:~~
 - ~~(A) rape (IC 35-42-4-1);~~
 - ~~(B) criminal deviate conduct (IC 35-42-4-2);~~
 - ~~(C) child molesting (IC 35-42-4-3);~~
 - ~~(D) child exploitation (IC 35-42-4-4(b));~~
 - ~~(E) vicarious sexual gratification (IC 35-42-4-5);~~
 - ~~(F) child solicitation (IC 35-42-4-6);~~
 - ~~(G) child seduction (IC 35-42-4-7);~~
 - ~~(H) sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9);~~
 - ~~(I) incest (IC 35-46-1-3); or~~
 - ~~(J) sexual battery (IC 35-42-4-8);~~



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- (2) have been convicted in Indiana after June 30, 1998, of:
 - (A) kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age; or
 - (B) criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age; or
- (3) are residing in Indiana and have been convicted in another state of an offense that is substantially equivalent to any of the sex offenses specified in subdivision (1) or violent offenses specified in subdivision (2); **each sex and violent offender (as defined in IC 5-2-12-4) who is required to register under IC 5-2-12.**

SECTION 4. IC 5-2-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) As used in this chapter, "sex and violent offender" refers to

(+) means a person convicted in Indiana after June 30, 1994, of any of the following sex and violent offenses:

- (A) (1) Rape (IC 35-42-4-1).
 - (B) (2) Criminal deviate conduct (IC 35-42-4-2).
 - (C) (3) Child molesting (IC 35-42-4-3).
 - (D) (4) Child exploitation (IC 35-42-4-4(b)).
 - (E) (5) Vicarious sexual gratification (IC 35-42-4-5).
 - (F) (6) Child solicitation (IC 35-42-4-6).
 - (G) (7) Child seduction (IC 35-42-4-7).
 - (H) (8) Sexual misconduct with a minor as a Class A or Class B A, Class B, or Class C felony (IC 35-42-4-9).
 - (I) (9) Incest (IC 35-46-1-3).
 - (J) (10) Sexual battery (IC 35-42-4-8).
- (2) a person convicted in Indiana after June 30, 1998, of:
- (A) (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age. or
 - (B) (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.
 - (13) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (12).
 - (14) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (13).
- (3) (b) The term includes a delinquent act by a child who:
- (A) (1) is at least fourteen (14) years of age;
 - (B) (2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is

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discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in ~~subdivision (1) or (2)~~ **subsection (a)** if committed by an adult; and

~~(C)~~ **(3)** is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in ~~subdivision (1) or (2)~~ **subsection (a)** if committed by an adult. ~~or~~

~~(4)~~ **a person residing in Indiana who was convicted after:**

~~(A) June 30, 1994, in another state of an offense that is substantially equivalent to any of the sex offenses listed in subdivision (1); or~~

~~(B) June 30, 1998, in another state of an offense that is substantially equivalent to any of the violent offenses listed in subdivision (2).~~

SECTION 5. IC 5-2-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) ~~An Subject to section 13 of this chapter, the following persons must register under this chapter:~~

(1) A sex and violent offender who resides or intends to reside for more than seven (7) days in Indiana.

(2) A sex and violent offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days;

during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex and violent offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) A sex and violent offender who resides or intends to reside in Indiana shall register with each local law enforcement authority having jurisdiction in the area where the sex and violent offender resides or intends to reside. ~~for more than seven (7) days.~~

(c) A sex and violent offender described in subsection (a)(2) shall register with the local law enforcement authority having



jurisdiction in the principal area where the sex and violent offender is or intends to be employed or carry on a vocation.

(d) A sex and violent offender described in subsection (a)(3) shall register with the local law enforcement authority having jurisdiction in the principal area where the sex and violent offender is enrolled or intends to be enrolled as a student.

(e) A sex and violent offender shall register on a form or in the form prescribed or approved by the institute. Each local law enforcement authority shall make the required forms available to registrants.

(f) The sex and violent offender shall register not more than seven (7) days after the sex and violent offender arrives at the place where the sex and violent offender resides or intends to reside is required to register under subsection (b), (c), or (d).

~~(b)~~ (g) Whenever ~~an~~ a sex and violent offender registers with a local law enforcement authority, ~~under subsection (a);~~ the local law enforcement agency shall immediately notify the institute of the sex and violent offender's registration on a form or in the form prescribed or approved by the institute.

SECTION 6. IC 5-2-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The registration required under this chapter must include the following information:

- (1) The sex and violent offender's full name, alias, date of birth, sex, race, height, weight, eye color, Social Security number, driver's license number, and home address.
- (2) A description of the offense for which the sex and violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.
- (3) If the person is required to register under section 5(a)(2) or 5(a)(3) of this chapter, the name and address of each of the sex and violent offender's employers in Indiana, the name and address of each campus or location where the sex and violent offender is enrolled in school in Indiana, and the address where the sex and violent offender stays or intends to stay overnight in Indiana for more than seven (7) days.
- (4) Any other information required by the institute.

SECTION 7. IC 5-2-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) ~~At least thirty (30) days but~~ Not more than ~~ninety (90)~~ fourteen (14) days before an Indiana sex and violent offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a

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community transition program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the ~~correctional~~ facility shall do the following:

(1) **Orally** inform the **sex and violent** offender of the **sex and violent** offender's duty to register under this chapter and require the **sex and violent** offender to sign a written statement that the **sex and violent** offender was **orally** informed or, if the **sex and violent** offender refuses to sign the statement, certify that the **sex and violent** offender was **orally** informed of the duty to register.

(2) **Deliver a written notice on a form or in the form prescribed or approved by the institute of the sex and violent offender's duty to register under this chapter and require the sex and violent offender to sign a written statement that the sex and violent offender received the written notice or, if the sex and violent offender refuses to sign the statement, certify that the sex and violent offender was given the written notice of the duty to register.**

~~(2)~~ (3) Obtain the address where the **sex and violent** offender expects to reside after the **sex and violent** offender's release.

~~(3)~~ (4) **Inform in writing on a form or in the form prescribed or approved by the institute** the applicable local law enforcement authority having jurisdiction in the area where the **sex and violent** offender expects to reside of the **sex and violent** offender's name, ~~release date of release or transfer~~, new address, and the **sex and violent** offense **or delinquent act** committed by the **sex and violent** offender.

(b) ~~Notwithstanding any other law,~~ Not more than three (3) days after ~~an a~~ **sex and violent** offender who is required to register under this chapter is released ~~from a correctional facility~~, **or transferred as described in subsection (a)**, an official of the ~~correctional~~ facility shall send to the state police **on a form or in the form prescribed or approved by the institute** the following:

(1) The **sex and violent** offender's fingerprints, photograph, and identification factors.

(2) The address where the **sex and violent** offender expects to reside after the **sex and violent** offender's release.

(3) The complete criminal history data (as defined in IC 5-2-5-1) **or, if the sex and violent offender committed a delinquent act,**

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juvenile history data (as defined in IC 5-2-5.1-5) of the sex and violent offender.

(4) Information regarding the **sex and violent** offender's past treatment for mental disorders.

(5) Information as to whether the **sex and violent** offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex and violent offender is placed on probation or in a community corrections program without confining the sex and violent offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 8. IC 5-2-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) If ~~an~~ **a sex and violent** offender who is required to register under this chapter changes:

(1) home address; or

(2) if section 5(a)(2) or 5(a)(3) of this chapter applies, the place where the sex and violent offender stays overnight for more than seven (7) days;

the sex and violent offender shall provide written notice not more than seven (7) days after the address change to the local law enforcement authority with whom the sex and violent offender last registered on a form or in the form prescribed or approved by the institute.

(b) If the **sex and violent** offender moves to a new municipality or county in Indiana, the local law enforcement authority referred to in subsection (a) shall **in writing** inform the appropriate local law enforcement authority in the new municipality or county **in Indiana, on a form or in the form prescribed or approved by the Indiana criminal justice institute, of the sex and violent offender's home or overnight residence. The local law enforcement authority receiving the written notice under this subsection shall verify the address of the sex and violent offender under section 8.5 of this chapter within seven (7) days after receiving the notice.**

(c) If a sex and violent offender who is required to register under section 5(a)(2) or 5(a)(3) of this chapter changes the sex and violent offender's principal place of employment, principal place of vocation, or campus or location where the sex and violent offender is enrolled in school, the sex and violent offender shall provide written notice not more than seven (7) days after the change to the local law enforcement authority with whom the sex and violent offender last registered on a form or in the form prescribed or approved by the institute.

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(d) If a sex and violent offender moves the sex and violent offender's place of employment, vocation, or enrollment to a new municipality or county in Indiana, the local law enforcement authority referred to in subsection (c) shall in writing inform the appropriate local law enforcement authority in the new municipality or county in Indiana, on a form or in the form prescribed or approved by the institute, of the sex and violent offender's new principal place of employment, vocation, or enrollment.

(e) A local law enforcement authority shall make the forms required under this section available to registrants.

(f) A local law enforcement authority who is notified of a change under subsection (a) or (c) shall immediately notify the institute of the change on a form or in the form prescribed or approved by the institute.

SECTION 9. IC 5-2-12-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8.5. (a) To verify ~~an~~ a sex and violent offender's current **home or overnight** residence, the local law enforcement agency shall do the following:

(1) Mail each **sex and violent** offender a verification form **prescribed or approved by the Indiana criminal justice institute** to the **sex and violent** offender's listed address at least one (1) time per year, beginning ~~one (1) year~~ **seven (7) days** after **the local law enforcement authority receives a notice under section 14 of this chapter or** the date the **sex and violent** offender is:

(A) released from a ~~correctional facility operated by the department of correction;~~ **penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;**

(B) **placed in a community transition program;**

~~(B)~~ (C) placed on parole; or

~~(C)~~ (D) placed on probation;

whichever occurs ~~last~~ **first**.

(2) Mail a verification form **prescribed or approved by the Indiana criminal justice institute** to each **sex and violent** offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning ~~ninety (90)~~ **seven (7) days** after **the local law enforcement authority receives a notice under section 14 of this chapter or** the date the **sex and violent** offender is:

(A) released from a ~~correctional facility operated by the~~

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~~department of correction;~~ **penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;**

(B) placed in a community transition program;

~~(B)~~ **(C) placed on parole; or**

~~(C)~~ **(D) placed on probation;**

whichever occurs ~~last~~ **first**.

(b) If ~~an~~ **a sex and violent** offender fails to return a signed verification form either by mail or in person, the local law enforcement ~~agency authority~~ shall immediately notify the institute.

SECTION 10. IC 5-2-12-8.6, AS AMENDED BY P.L.1-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8.6. (a) ~~An~~ **A sex and violent** offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If ~~an~~ **a sex and violent** offender who is required to register under this chapter changes the **sex and violent** offender's name due to marriage, the **sex and violent** offender must notify the criminal justice institute not more than thirty (30) days after the name change.

SECTION 11. IC 5-2-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. ~~An~~ **A sex and violent** offender who knowingly or intentionally fails to register under this chapter commits a Class D felony. However, the offense is a Class C felony if the **sex and violent** offender has a prior unrelated offense under this section.

SECTION 12. IC 5-2-12-11, AS AMENDED BY P.L.214-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The institute shall make the sex and violent offender registry available on a computer disk. Each time the registry is updated under section 10 of this chapter, the institute shall send one (1) paper copy of the sex and violent offender registry to:

- (1) all school corporations (as defined in IC 20-1-6-1);
- (2) all nonpublic schools (as defined in IC 20-10.1-1-3);
- (3) a state agency that licenses individuals who work with children;
- (4) the state personnel department to screen individuals who may be hired to work with children;
- (5) all child care facilities licensed by or registered in the state of Indiana; and
- (6) other entities that:
 - (A) provide services to children; and
 - (B) request the registry.



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(b) The institute shall publish the sex and violent offender registry on the Internet through the computer gateway administered by the intelenet commission under IC 5-21-2 and known as Access Indiana.

(c) A copy of the sex and violent offender registry provided to an entity under subsection (a)(5) or (a)(6) or published under subsection (b) may not include the home address of ~~an~~ **a sex and violent** offender whose name appears in the registry.

SECTION 13. IC 5-2-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) Except as provided in ~~subsection~~ **subsections (b) and (c), a sex and violent** offender's duty to register expires ten (10) years after the date the **sex and violent** offender:

- (1) becomes twenty-one (21) years of age, if the sex and violent offender was required to register under this chapter for a delinquent act;**
- (2) is released from prison or any other facility operated by the department of correction; a penal facility (as defined in IC 35-41-1-21) of a state or another jurisdiction;**
- (3) is placed in a community transition program;**
- (4) is placed in a community corrections program;**
- (5) is placed on parole; or**
- (6) is placed on probation;**

whichever occurs last.

(b) ~~At~~ **A sex and violent** offender who is found to be a sexually violent predator by a court under IC 35-38-1-7.5(b) is required to register for an indefinite period unless a court, assisted by a board of experts, finds that the **sex and violent** offender is no longer a sexually violent predator under IC 35-38-1-7.5(c).

(c) **A sex and violent offender who is convicted of at least one (1) sex and violent offense that the sex and violent offender committed:**

- (1) when the person was at least eighteen (18) years of age; and**
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;**

is required to register for life.

(d) **A sex and violent offender who is convicted of at least one (1) sex and violent offense:**

- (1) that was committed when the person was at least eighteen (18) years of age;**
- (2) that was committed against a victim who was less than eighteen (18) years of age at the time of the crime;**
- (3) in which the sex and violent offender:**



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(A) proximately caused serious bodily injury or death to the victim;

(B) used force or the threat of force against the victim or a member of the victim's family; or

(C) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex and violent offender who is convicted of at least two (2) unrelated sex and violent offenses that were committed:

(1) when the person was at least eighteen (18) years of age; and

(2) against victims who were less than eighteen (18) years of age at the time of the crime;

is required to register for life.

SECTION 14. IC 5-2-12-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) The governor may enter into a compact with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the release, transfer, or change of address, employment, vocation, or enrollment of a sex and violent offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) The compact must provide for the designation of a state agency to coordinate the transfer of information.

(c) If the state agency receives information that a sex and violent offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, the state agency shall inform in writing the appropriate local law enforcement authority having jurisdiction in the area where the sex and violent offender is required to register in Indiana of:

(1) the sex and violent offender's name, date of relocation, and new address; and

(2) the sex and violent offense or delinquent act committed by the sex and violent offender.

SECTION 15. IC 11-13-3-4, AS AMENDED BY P.L.214-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and

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not unduly restrictive of a fundamental right.

(c) If a person is released on parole the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is ~~an~~ **a sex and violent** offender (as defined in IC 5-2-12-4) to:
 - (A) participate in a treatment program for sex offenders approved by the parole board; and
 - (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

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- (i) receives the parole board's approval; or
- (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

- (A) require a parolee who is ~~an~~ a **sex and violent** offender (as defined in IC 5-2-12-4) to register with a local law enforcement authority under IC 5-2-12-5; and
- (B) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the offender obtains written approval from the parole board.

If the parole board allows the offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole board shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

SECTION 16. IC 31-37-19-5, AS AMENDED BY P.L.32-2000, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

- (1) Order supervision of the child by:
 - (A) the probation department; or
 - (B) the county office of family and children.

As a condition of probation under this subdivision, the **juvenile** court shall after a determination under ~~IC 5-2-12-4(3)~~ **IC 5-2-12-4** require a child who is adjudicated a delinquent child for an act that would be an offense described in ~~IC 5-2-12-4(1)~~ **IC 5-2-12-4** if committed by an adult to register with a local law enforcement authority under IC 5-2-12.

- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Order the child to surrender the child's driver's license to the court for a specified period of time.
- (4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.
- (5) Partially or completely emancipate the child under section 27 of this chapter.



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(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 17. IC 31-37-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) After a **juvenile court makes a** determination under ~~IC 5-2-12-4(2)~~, **IC 5-2-12-4**, the juvenile court may, in addition to an order under section 6 of this chapter, and if the child:

(1) is at least thirteen (13) years of age and less than sixteen (16) years of age; and

(2) committed an act that, if committed by an adult, would be:

(A) murder (IC 35-42-1-1);

(B) kidnapping (IC 35-42-3-2);

(C) rape (IC 35-42-4-1);

(D) criminal deviate conduct (IC 35-42-4-2); or

(E) robbery (IC 35-42-5-1) if the robbery was committed while armed with a deadly weapon or if the robbery resulted in bodily injury or serious bodily injury;

order wardship of the child to the department of correction for a fixed period that is not longer than the date the child becomes eighteen (18) years of age, subject to IC 11-10-2-10.

(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section (or IC 31-6-4-15.9(b)(8) before its repeal).

SECTION 18. IC 35-38-1-7.5, AS AMENDED BY P.L.1-1999, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a sex offense listed in ~~IC 5-2-12-4(1)(A)~~ **IC 5-2-12-4(a)(1)** through ~~IC 5-2-12-4(1)(J)~~ **IC 5-2-12-4(a)(10)** for which the person is required to register with a local law enforcement agency under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:



- (1) the person is required to register with a local law enforcement agency as provided in IC 5-2-12-13(b); and
- (2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the Indiana criminal justice institute that the person is no longer considered a sexually violent predator.

SECTION 19. IC 35-38-2-2.2, AS AMENDED BY P.L.214-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.2. As a condition of probation for **an a sex and violent** offender (as defined in IC 5-2-12-4), the court shall:

- (1) require the offender to register with a local law enforcement authority under IC 5-2-12-5; and
- (2) prohibit the offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of probation, unless the offender obtains written approval from the court.

If the court allows the **sex and violent** offender to reside within one thousand (1,000) feet of school property under subdivision (2), the court shall notify each school within one thousand (1,000) feet of the offender's residence of the order.

SECTION 20. IC 35-38-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.4. As a condition of probation, the court may require **an a sex and violent** offender (as defined in IC 5-2-12-4) to:

- (1) participate in a treatment program for sex offenders approved by the court; and
- (2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:
 - (A) receives the court's approval; or
 - (B) successfully completes the treatment program referred to in subdivision (1).

SECTION 21. IC 35-50-2-2, AS AMENDED BY HEA 1855-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The court may suspend any part of a

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sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

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(M) escape (IC 35-44-3-5) with a deadly weapon;
 (N) rioting (IC 35-45-1-2) with a deadly weapon;
 (O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or

(R) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of ~~an~~ **a sex and violent** offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under

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IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 22. IC 35-50-6-1, AS AMENDED BY P.L.90-2000, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes his fixed term of imprisonment, less the credit time he has earned with respect to that term, he shall be:

- (1) released on parole for not more than twenty-four (24) months, as determined by the parole board;
- (2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or
- (3) released to the committing court if his sentence included a period of probation.

(b) Except as provided in subsection (d), a person released on parole remains on parole from the date of his release until his fixed term expires, unless his parole is revoked or he is discharged from that term by the parole board. In any event, if his parole is not revoked, the parole board shall discharge him after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for the remainder of his fixed term. However, he shall again be released on parole when he completes that remainder, less the credit time he has earned since the revocation. The parole board may reinstate him on parole at any time after the revocation.

(d) When ~~an~~ **a sex and violent** offender (as defined in IC 5-2-12-4) completes the offender's fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

SECTION 23. [EFFECTIVE UPON PASSAGE] **(a) Immediately after the effective date of this SECTION, the Indiana criminal justice institute shall establish a program to approve or prescribe the forms required under IC 5-2-12, as amended by this act.**

(b) The Indiana criminal justice institute may exempt any person that is required to use a form prescribed or approved by the institute from the form requirements under IC 5-2-12, as amended by this act, until the earlier of the following:

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(1) The date specified by the institute.

(2) July 1, 2002.

(c) This SECTION expires July 2, 2002.

SECTION 24. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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HEA 2145 — Concur+

